

Message Text

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ACTION L-03

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-----072073 101828Z /50

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TO SECSTATE WASHDC 4964

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E.O. 11652: N/A
TAGS: PDIP (WOLSTENCROFT, HERBERT)
SUBJ: EXTRADITION: HERBERT WOLSTENCROFT

REF: STATE A-0834

THE DOCUMENTS ENCLOSED WITH THE REFTEL HAVE BEEN
EXAMINED BY THE DPP AND BEEN DETERMINED TO BE
INSUFFICIENT TO DETERMINE IF EXTRADITION POSSIBLE.
FOLLOWING IS AN ELABORATION FROM THE DPP CONTAINED IN A
LETTER TO CONSUL HANCOCK.

QUOTE: THANK YOU FOR YOUR LETTER OF 10TH MARCH AND
ENCLOSURES.

UNFORTUNATELY THE DOCUMENTS YOU ENCLOSED ARE INSUFFICIENT
TO SUPPORT EXTRADITION PROCEEDINGS. PERHAPS IT WOULD
ASSIST IF I DESCRIBE THE EVIDENCE WHICH SHOULD IF
POSSIBLE BE OBTAINED, AND THE MANNER OF ITS PRESENTATION
I SHOULD POINT OUT IN PREFACE THAT THE DESCRIPTION OF
WOLSTENCROFT ("W") WE HAVE BEEN GIVEN IS VERY MEAGRE AND
THE POLICE HAVE NO KNOWLEDGE OF HIS PRESENCE IN THIS
COUNTRY. FURTHER, NONE OF THE COUNTS IN THE INDICTMENT
ARE, PER SE, EXTRADITABLE; HOWEVER, OTHER OFFENCES WHICH
APPEAR IN THE 1976 ORDER, E.G. NUMBER 17 IN THE SCHEDULE
WOULD PROBABLY BE DISCLOSED ON THE FACTS.

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THROUGHOUT THE FOLLOWING ADVICES IT SHOULD BE BORNE IN
MIND THAT, GENERALLY SPEAKING, "HEARSAY" EVIDENCE IS
INADMISSIBLE IN CRIMINAL PROCEEDINGS IN THIS COUNTRY.
GENERALLY THE BEST I.E. "FIRST-HAND" EVIDENCE AVAILABLE
SHOULD BE OBTAINED. TO TAKE EXAMPLES FROM THE DOCUMENTS
SUBMITTED: THE AFFIDAVIT OF TEEL CONTAINS CONSIDERABLE
HEARSAY, E.G. THE WORDS IN THE MIDDLE OF PAGE 1 FROM

"THROUGH THE USE OF THESE LEASES....." TO "AND OTHERS". AS WILL BE EXPLAINED LATER, ALL THESE MATTERS MUST BE PROVED BY EXHIBITING COPIES OF THE LEASES AND REPORTS, PROVING THEIR ORIGINALITY, AND THAT THEY WERE USED BY THE DEFENDANTS TO OBTAIN MONEY FROM POTENTIAL INVESTORS, AND SO ON. AGAIN, THERE IS NO PURPOSE IN SAYING (PAGE 2) "I HAVE PERSONALLY INTERVIEWED MORE THAN 20 POTENTIAL WITNESSES.....". IF THEIR EVIDENCE IS RELEVANT, THEN THE PROPERLY SWORN AND AUTHENTICATED STATEMENTS OF THESE WITNESSES SHOULD BE SUBMITTED, BECAUSE ONLY THEY CAN SPEAK OF MATTERS WHICH ARE PERSONAL TO THEM. AND AGAIN, ON PAGE 3, THE WORDS "K.L. AZAR AND EDGAR E. SMITH HAVE ADVISED ME THAT THEY HAVE MET PERSONALLY WITH H.M. WOLSTENCROFT AND OTHERS ON MORE THAN TEN OCCASIONS ETC." ARE HEARSAY; ONLY AZAR AND SMITH CAN PROPERLY DEPOSE AS TO WHAT TRANSPIRED BETWEEN THEM AND W.

IF FINGERPRINTS OF W EXIST, THEY SHOULD BE EXHIBITED BY THE PERSON WHO TOOK THEM. IF A PASSPORT PHOTOGRAPH OF W EXISTS IT SHOULD BE EXHIBITED, OR ANY SIMILAR PHOTOGRAPH EXHIBITED BY SOMEBODY WHO TOOK IT OR WHO CAN SAY IT IS A TRUE LIKENESS OF W. DETAILED EVIDENCE OF DISTINGUISHING MARKS AND FEATURES, ETC. WOULD ASSIST.

EVIDENCE IS REQUIRED TO PROVE THAT: THE DEFENDANTS, OR UNCLASSIFIED

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SOME OF THEM, SECURED LEASES ON THE LLANO COUNTY LAND. COPIES OF THE LEASES SHOULD BE EXHIBITED BY A PARTY TO THE LEASE OR HIS LEGAL ADVISER. ACCORDING TO TEEL, W OBTAINED LEASES, BUT THERE IS NO DIRECT EVIDENCE OF THIS EVIDENCE IS ALSO REQUIRED TO PROVE THE DEFENDANTS, OR SOME OF THEM PRODUCED AND CAUSED THE FALSE ASSAY REPORTS TO BE DISTRIBUTED, AND THAT THEY WERE IN FACT FALSE. IN THIS RESPECT THE REPORT OF THE FBI LABORATORY DATED 5TH NOVEMBER 1975 SHOULD BE PUT IN STATEMENT FORM, SWORN AND AUTHENTICATED ETC. I PRESUME THE DEPOSITIONS OF HIGHT, STOCKMAN AND BRADSHAW, AND THE NOTES OF WESTERN, RELATE TO THE TAKING OF ORE SAMPLES? OBVIOUSLY EVIDENCE MUST BE PRODUCED IN ORDER TO LINK THE ORE SAMPLES WITH THE LLANO COUNTY LAND SUBJECT TO THE LEASES MICHAEL CLARK IN HIS AFFIDAVIT CLAIMS "THE QUALIFICATION AND EDUCATIONAL BACKGROUNDS OF THE ASSAYERS, AS WELL AS THE METHODS OF EXTRACTING PRECIOUS METALS FROM THE ORE,

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WERE FRAUDULENT." - EVIDENCE SHOULD BE GIVEN TO SUPPORT
THESE CLAIMS. AT THE MOMENT THE EXHIBITS A TO THE TWO
AFFIDAVITS ARE "IN VACUO" - I.E. THERE IS LITTLE
EVIDENCE AS TO THEIR ORIGIN. FURTHER, REFERRING TO
EXHIBIT A TO TEEL'S AFFIDAVIT, WHO IS JOHN O'MALLEY
WHO WROTE THE LETTER DATED 22ND MARCH 1974? IS HE
INVOLVED IN THE CONSPIRACY? AND WAS MR. SISSON A
PROSPECTIVE INVESTOR OR OPTION-BUYER? SIMILAR QUESTIONS
CAN BE ASKED ABOUT THE REPORT OF P. MATHENY.

IT WOULD ASSIST IF AN "EXPERT" WITNESS COULD GIVE A
STATEMENT EXPLAINING SOME OF THE MANY TECHNICAL WORDS
AND PHRASES EMPLOYED IN THE ASSAY REPORTS ETC.

STATEMENTS ARE REQUIRED FROM A SELECTION OF INVESTORS
WHO SHOULD SAY HOW THEY WERE DECEIVED INTO INVESTING BY
FALSE REPRESENTATIONS, HOW MUCH THEY INVESTED, AND THAT
THEY HAVE NOT BEEN REPAID. THEY SHOULD PRODUCE ALL
CORRESPONDENCE WITH, AND BROCHURES AND DOCUMENTS
RECEIVED FROM, THE DEFENDANTS. PRESUMABLY THERE WERE
DETAILED PROSPECTUSES DESCRIBING THE LAND, THE ORE, THE
EXPERIMENTS, THE PLANS TO MINE, THE DETAILS OF THE
SMELTER AND EQUIPMENT AND COVERING MATTERS RAISED BY
E.G. DUNKLE IN HIS LETTER TO MCCORD OF 10TH MAY 1974.
AND ALL THOSE MATTERS LISTED 1 TO 22 FOLLOWING COUNT 1B
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OF THE INDICTMENT SHOULD BE FULLY EXPLAINED, PROVED AND
SUPPORTED BY DOCUMENTS.

IF THE INTERNATIONAL SURETY AND CASUALTY COMPANY WAS PROPERLY INCORPORATED, THEN FORMAL EVIDENCE WILL BE REQUIRED TO ESTABLISH THIS, AND THE NAMES OF THE DIRECTORS AND RELEVANT INFORMATION ON THE PUBLIC RECORDS THIS ALSO APPLIES TO THE OTHER COMPANIES MENTIONED LIKE TEX-A-CHIEF INC., INTERNATIONAL BARTER COMPANY, SHORELINE HOLDING CO. ETC. W'S PRECISE POSITION IN THE FIRST MENTIONED COMPANY SHOULD BE PROVED. ALL HIS FALSE AND FRAUDULENT STATEMENTS SHOULD BE PROVED BY SWORN STATEMENTS OF THOSE DECEIVED AND BY DOCUMENTS WHICH HE HAS SIGNED - AND AGAIN, PROOF OF AUTHORSHIP MUST BE ESTABLISHED EITHER BY EVIDENCE OF HIS ADMISSION, OR BY SOMEBODY WHO IS WELL ACQUAINTED WITH HIS SIGNATURE. ALL HIS DEALINGS WITH THE OPTIONS, BONDS, CONTRACTS, FINANCIAL STATEMENTS, ETC. SHOULD BE COVERED. CLEARLY STEHL AND SMITH, AS VERY SUBSTANTIAL INVESTORS, SHOULD MAKE FULL STATEMENTS COVERING ALL THEIR DEALINGS WITH W, ALL THE REPRESENTATIONS THE LATTER MADE, AND PRODUCE ALL RELEVANT DOCUMENTS. AGAIN, IT SHOULD BE EMPHASISED THAT ALL DOCUMENTS MUST BE LINKED UP WITH THE STATEMENTS, E.G. THE PERFORMANCE BONDS MUST BE IDENTIFIED AND EXHIBITED BY THOSE WHO ENTERED INTO THEM.

EVIDENCE SHOULD BE PRODUCED THAT NO SMELTER WAS EVER BUILT, OR THAT ANY OTHER ACTIVITY OR WORK WAS INSTITUTED TO INDICATE THAT W AND THE OTHER DEFENDANTS INTENDED TO FULFIL THEIR OBLIGATIONS AND PROMISES.

OTHER MATTERS

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AUDITING THE ACCOUNTS OF THE INTERNATIONAL SURETY AND CASUALTY COMPANY, WAS HE PROPERLY CERTIFIED, AND DID HE KNOWINGLY PARTICIPATE IN THE CONSPIRACY? (SEE HIS LETTER DATED 15TH JULY 1974).

THE ASSIGNMENT MADE ON 24TH AUGUST 1974 BY BRETZ TO STEHL: THIS DOES NOT SEEM TO BE COVERED BY THE INDICTMENT, AND THERE ARE NO SUPPORTING OR EXPLANATORY STATEMENTS. AGAIN, STEHL SHOULD GIVE FULL DETAILS. DID KYLE G. BRETZ ENTERPRISES, INC., EVER OWN OR OPERATE A REFINERY AT HESPERIA, CALIFORNIA?

ALL EXHIBITS SHOULD BE GIVEN INDIVIDUAL IDENTIFYING NUMBERS - FOR EASE OF REFERENCE THE SIX EXHIBITS REFERRED TO COLLECTIVELY AS "A" IN TEEL'S AFFIDAVIT SHOULD BE NUMBERED 1 TO 6, OR A1 - 6. ALSO, SOME OF

THE COPIES SUBMITTED ARE VERY POOR, SOME INCOMPLETE,
AND SOME TOTALLY ILLEGIBLE.

IT IS MOST IMPORTANT THAT, IF POSSIBLE, EVIDENCE SHOULD
BE GIVEN TO LINK W IN THE CONSPIRACY WITH THE OTHER
DEFENDANTS, E.G. BY SHOWING HE KNEW THEM, WORKED WITH
THEM, GAVE INTERVIEWS AND UNDERTAKINGS ETC. IN THEIR
PRESENCE, WAS COMPANY CO-DIRECTOR WITH THEM, DEPOSITED
AND WITHDREW FROM A BANK ACCOUNT SHARED WITH THEM ETC.

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IN THIS WAY EVIDENCE OF THE OTHER DEFENDANTS' ACTIVITIES
AND EVEN ADMISSIONS COULD BE ADMISSIBLE AGAINST W AS
SHOWING A COMMON PURPOSE.

IT WOULD BE HELPFUL TO KNOW WHAT PROCEEDINGS HAVE BEEN
TAKEN AGAINST THE OTHER DEFENDANTS; HAVE THEY ALL BEEN
INTERVIEWED AND HAVE THEY ALL MADE ADMISSIONS? ARE
THOSE ADMISSIONS ORAL OR IN WRITING OR BOTH? HAVE THEY
IMPLICATED W? ARE ANY OF THEM WILLING TO TESTIFY
AGAINST W, AND IS IT INTENDED TO USE ANY OF THEM E.G.
DUNKLE, IN POSSIBLE PROCEEDINGS AGAINST W?

AS FAR AS THE PRESENTATION OF THE PAPERS IS CONCERNED,
I WOULD REMIND YOU OF THE REQUIREMENTS OUTLINED
IN SECTIONS 14 AND 15 EXTRADITION ACT OF 1870. FURTHER,
IT IS IMPORTANT THAT ARTICLE VII OF THE 1976 ORDER IS
COMPLIED WITH, E.G. A SEPARATE STATEMENT OF FACTS IS
REQUIRED, ON THE LINES OF THE DESCRIPTION FOLLOWING
COUNT 1B OF THE INDICTMENT: AND A STATEMENT THAT THE

OFFENCES FOR WHICH EXTRADITION IS REQUESTED CONSTITUTE
FELONIES UNDER US LAW IS REQUIRED.

I APPRECIATE THE VOLUME OF FURTHER EVIDENCE WE REQUIRE
MIGHT GIVE YOU CAUSE FOR DISMAY, BUT I CANNOT FORSEE
EXTRADITION PROCEEDINGS BEING SUCCESSFUL WITHOUT IT.
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BUT IF YOU WOULD LIKE ANY FURTHER ADVICE THEN I SHALL BE
VERY PLEASED TO ASSIST. UNQUOTE.

BREWSTER

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Status: NATIVE
Subject: EXTRADITION: HERBERT WOLSTENCROFT
TAGS: PDIP, (MOORE, HERMAN E)
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